MT LEGISLATIVE HISTORY

Chapter 23 1979

Bill H 4 S _____ Original bill & hist. ✓C

H. Committee on Judiciary		S. Committee on Highways	
Hearing Date(s) _____	___C	Hearing Date(s) _____	___C
1/9	✓C	1/25	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out 1/12	✓C	1/27	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

CHAPTER NO. 23

HOUSE BILL NO. 4

INTRODUCED BY MARKS

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 4, 1979	Introduced and referred to Committee on Judiciary.
January 6, 1979	On motion, joint rule 6-6 suspended and sponsor's signature allowed to be added to prefiled bill.
January 12, 1979	Committee recommend bill do pass. Report adopted.
January 13, 1979	On motion rules suspended and bill placed on second reading this day.
	Second reading, do pass.
	On motion rules suspended and bill placed on third reading this day.
	Third reading, passed. Engrossed and transmitted to second house.

IN THE SENATE

January 15, 1979	Introduced and referred to Committee on Highways and Transportation.
January 29, 1979	Committee recommend bill be concurred in and placed on Consent Calendar. Report adopted.
February 1, 1979	Consent Calendar discussion.

February 2, 1979 — Consent Calendar bill concurred in.

IN THE HOUSE

February 5, 1979 — Returned from second house. Concurred in. Sent to enrolling.

Reported correctly enrolled.

House BILL NO. 4

INTRODUCED BY _____

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HIGHWAYS; AND REPEALING SECTION 32-1621, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 60-1-101, MCA, is amended to read:

"60-1-101. Legislative findings. The legislature recognizes that safe and efficient highway transportation is of important interest to all of the people of the state and ~~hereby determines and~~ declares that:

(1) inadequate highways, roads, and streets obstruct the free flow of traffic, increase costs of motor vehicle operation, endanger the health and safety of the citizens of the state, depreciate property values, and impede generally the economic progress of the state;

(2) the problems of establishing and maintaining adequate highways, roads, and streets, eliminating congestion, reducing accident frequency, providing parking facilities, and taking all necessary steps to insure safe and convenient transportation are urgent;

(3) adequate and integrated systems of highways, roads, and streets are essential to the general welfare of the ~~state of Montana~~;

(4) providing adequate highway facilities is a proper public use and purpose, and ~~that [this act]~~ this title is necessary for the preservation of the public peace, health, and safety, for the promotion of the general welfare, and as a contribution to the national defense."

Section 2. Section 60-1-103, MCA, is amended to read:

"60-1-103. General definitions. Subject to additional definitions contained in this title which are applicable to specific chapters or sections and unless the context otherwise requires, terms are defined as follows:

(1) "~~abandonment~~ Abandonment"-- means cessation of use of right-of-way (easement) or activity thereon with no intention to reclaim or use again (sometimes called vacation).

(2) "~~commission~~ Commission"-- means the highway commission provided for in 2-15-2502.

(3) "~~condemnation~~ Condemnation"-- means taking by exercise of the right of eminent domain.

(4) "~~construction~~ Construction"-- means supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, mapping, and costs of right-of-way or other interests in land and elimination of hazards at

railway grade crossings.

(5) "~~control~~ Control of access" ~~means~~ means the condition in which the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially controlled by public authority.

(6) "~~county~~ County road" ~~means~~ means any public highway opened, established, constructed, maintained, abandoned, or discontinued by a county in accordance with Title 7, chapter 14.

(7) "~~department~~ Department" ~~means~~ means the department of highways provided for in Title 2, chapter 15, part 25.

(8) "~~director~~ Director" ~~means~~ means the director of highways, a position provided for in 2-15-2501.

(9) "~~easement~~ Easement" ~~means~~ means a right acquired by public authority to use or control property for a designated purpose.

(10) "~~eminent~~ Eminent domain" ~~means~~ means the right of the state to take private property for public use.

(11) "~~federal-aid~~ Federal-aid highway" ~~means~~ means any public highway which is a portion of any of the federal-aid highway systems.

(12) "~~federal-aid~~ Federal-aid highway systems" ~~means~~ means all of the systems named hereafter and their urban extensions.

(13) "~~federal-aid~~ Federal-aid interstate system" ~~means~~ means that system of public highways selected by the commission in cooperation with adjoining states, subject to the approval of the secretary of commerce, as provided in ~~the Federal Highway Act, as amended~~ Title 23, U.S.C.

(14) "~~federal-aid~~ Federal-aid primary system" ~~means~~ means that system of connected public highways designated by the commission, subject to the approval of the secretary of commerce, as provided in ~~the Federal Highway Act, as amended~~ Title 23, U.S.C.

(15) "~~federal-aid~~ Federal-aid secondary system" ~~means~~ means that system of public highways not on in the federal-aid primary or interstate systems selected by the commission in cooperation with the boards of county commissioners, subject to the approval of the secretary of commerce, as provided in ~~the Federal Highway Act, as amended~~ Title 23, U.S.C.

(16) "~~fee~~ Fee simple" ~~means~~ means an absolute estate or ownership in property including unlimited power of alienation.

(17) "~~highway~~ Highway" ~~includes~~ includes rights-of-way or other interests in land, embankments, retaining walls, culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and protective structures.

(18) "~~highway~~ Highway", "~~road~~", and "~~street~~" ~~mean~~ whether

they appear together or separately or are preceded by the adjective "public", ~~these~~ are general terms denoting a public way for purposes of vehicular travel~~--including~~ and include the entire area within the right-of-way.

(19) "~~highway~~ Highway authority~~ties~~"-- means the entity~~ties~~ at any level of government authorized by law to construct and maintain highways.

(20) "~~maintenance~~ Maintenance"-- means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for its safe and efficient utilization.

(21) "~~public~~ Public highways"-- means all streets, roads, highways, bridges, and related structures which have been or shall be:

(a) built and maintained with appropriated funds of the United States or the state or any political subdivision thereof;

(b) dedicated to public use;

(c) acquired by eminent domain;

(d) acquired by adverse ~~user~~ use by the public, jurisdiction having been assumed by the state or any political subdivision thereof.

(22) "~~right-of-way~~ Right-of-way"-- is a general term denoting land, property, or any interest therein, usually in a strip, acquired for or devoted to highway purposes.

(23) "~~state~~ State highway"-- means any public highway planned, laid out, altered, constructed, reconstructed, improved, repaired, maintained, or abandoned by the department.

(24) "~~toll----bridge~~ Bridge"-- means any bridge constructed by the department, together with all appurtenances, additions, alterations, improvements, replacements, and the approaches thereto, lands used therefor, and improvements thereon."

Section 3. Section 60-1-201, MCA, is amended to read:

"60-1-201. Classification -- highways and roads. (1) Public highways of this state are ~~classed~~ classified as follows:

(a) federal-aid highways;

(b) state highways;

(c) county roads;

(d) city streets.

(2) All highways which are not designated, selected, or established by the commission or constructed or maintained by the department are county roads or city streets.

(3) County roads are those opened, established, constructed, maintained, changed, abandoned, or discontinued by a county in accordance with Title 7, chapter 14.

(4) City streets are those public highways under the

jurisdiction of municipal officials."

Section 4. Section 60-2-106, MCA, is amended to read:

"60-2-106. Designation of highways not located entirely within the state. The commission may designate highways subject to improvement under the provisions of ~~the Federal-Aid--Road--Act,--approved-July-11,-1916,-the-Federal Highway-Act,-approved-November-9,-1921,-and--all--amendments thereto~~ Title 23, U.S.C., even though those highways are not located entirely and continuously within the boundaries of the state. The designations shall meet the following conditions:

(1) ~~that~~ the highway is on an approved federal-aid route and eligible for improvement under ~~the--federal-aid acts~~ Title 23, U.S.C.;

(2) ~~that~~ the location of a portion of the route outside the boundaries of the state is necessary because of natural geographical or physical conditions which make the construction of the highway within the state impossible or impracticable;

(3) ~~that~~ the portion of the route located outside the state does not connect with and is not a part of the state highway system of the adjoining state."

Section 5. Section 60-2-112, MCA, is amended to read:

"60-2-112. Competitive bidding. (1) When the estimated cost of any work exceeds $1,000, the commission shall let

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the contract by competitive bidding. Award shall be made upon such notice and upon such terms as the commission may prescribe by its rules. However, except when prohibited by federal law, the commission ~~must~~ shall make awards and contracts in accordance with 18-1-102 and 18-1-112.

(2) If the commission finds that the work may be done in some more efficient manner, it need not let the contract by competitive bidding.

(3) If, on highway construction work financed in whole or in part by federal funds, the United States secretary of transportation affirmatively finds that under the circumstances relating to a particular project some method other than competitive bidding is in the public interest, the commission may enter into contracts with a board of county commissioners. These contracts may authorize each county to acquire rights-of-way for, survey, and construct farm-to-market, secondary, or feeder roads within the county by force account, unit price, or otherwise, as may be agreed by the commission and the board.

(4) If, on any highway construction work financed in whole or in part by federal funds, the commission finds that enforcement of the provisions contained in 15-50-203 and 18-2-311, relating to public contractors working beyond contract time will result in a reduction in the full benefits of ~~the--Federal--Highway--Act--of--1921--and--all~~

~~amendments--thereto~~ Title 23, U.S.C., it may waive enforcement of such provisions."

Section 6. Section 60-2-205, MCA, is amended to read:

"60-2-205. Powers of department with respect to highways not located entirely within the state. The department may expend funds for the construction, reconstruction, engineering, administration, betterment, and maintenance of highways designated under 60-2-106. It may do all things necessary or required to carry out fully the cooperation contemplated under ~~the federal-aid acts~~ Title 23, U.S.C., with regard thereto."

Section 7. Section 60-3-101, MCA, is amended to read:

"60-3-101. Assent to ~~federal-aid acts~~ federal law. (1) The legislature, for and on behalf of the ~~state of Montana~~, assents to the provisions of ~~the Federal Aid Road Act, approved July 11, 1916, and the Federal Highway Act, approved November 9, 1921, and all amendments thereto~~ Title 23, U.S.C.

(2) The department may, for and on behalf of the state, enter into all contracts and agreements with the United States or any officer, department, or bureau thereof relating to the construction, reconstruction, repair, and maintenance of highways in the state.

(3) The department may make all rules necessary to comply with the provisions of the ~~acts~~ laws assented to and

all other ~~acts~~ laws granting aid for public highways and to obtain for the state the full benefits of such ~~acts~~ laws.

(4) The department may do all other things necessary or required to carry out fully the cooperation contemplated by the acts of congress assented to."

Section 8. Section 60-3-103, MCA, is amended to read:

"60-3-103. Purposes for which federal funds to be expended. The department may expend funds apportioned to the state under ~~Public Law 89-285, Title III, Section 301(a), October 22, 1965, 79 Statute 1032,~~ 23 U.S.C. 319 for the following purposes:

(1) for landscape and roadside development within the rights-of-way of federal-aid highways of this state;

(2) for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to the highways; and

(3) for acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to federal-aid highway rights-of-way reasonably necessary to accommodate the traveling public."

Section 9. Section 60-3-105, MCA, is amended to read:

"60-3-105. Expenditure of funds. The department shall expend only nonmatching funds authorized under section 23

U.S.C. 319(b) ~~of the Federal Highway Beautification Act of 1965, as amended,~~ in carrying out the authority granted by 60-3-102 through 60-3-104."

Section 10. Section 60-3-201, MCA, is amended to read:

"60-3-201. Distribution and use of proceeds of gasoline dealers' license tax. (1) All money received in payment of license taxes under the Distributor's Gasoline License Tax Act, except those amounts paid out of the department of revenue's suspense account for gasoline tax refund, shall be used and expended as provided in this section. So much of that money on hand at any time as may be needed to pay highway bonds and interest thereon when due and to accumulate and maintain a reserve therefor, as provided in laws and in resolutions of the state board of examiners authorizing such bonds, shall be deposited in the highway bond account in the sinking fund established by 17-2-102. Subject to that provision, 9/10 of 1% of all money shall be deposited in the state park account and 3/10 of 1% of all money shall be deposited in a snowmobile account in the earmarked revenue fund. ~~All of the~~ The remainder of the money shall be used ~~and expended~~ by the department of highways on the federal-aid highways in this state selected and designated under ~~the Federal Aid Act, approved July 11, 1916, and the Federal Highway Act, approved November 9, 1921, and all amendments thereto~~ Title 23, U.S.C., and on

highways leading from each county seat in the state to the federal highway system of federal-aid roads where the county seat is not on the system and on the other roads which have been or may be authorized by the laws of Montana and for collection of the license taxes and the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of this state.

(2) The department shall, in expending this money, carry forward construction from year to year, using the money expended through the matching up of federal-aid allotments to Montana upon the federal highway system in the various parts of the state in accordance with 60-3-204 through 60-3-206. Nothing in this ~~fact~~ title conflicts with ~~those federal-aid highway acts~~ Title 23, U.S.C., and the rules by which ~~they are~~ it is administered.

(3) The department may enter into cooperative agreements with the national park service and the federal highway administration for the purpose of maintaining national park approach roads in Montana.

(4) Money credited to the state park account in the earmarked revenue fund shall be used only for the creation, improvement, and maintenance of state parks where motor boating is allowed, except for the payment of refunds under 15-70-221 through 15-70-226. The legislature hereby finds as a fact that of all the fuel sold in the state for

consumption in internal combustion engines, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

(5) Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost, and to promote snowmobile safety. For the 2 years following July 1, 1977, 15% of the amount deposited in the snowmobile fund each year shall be used to promote snowmobile safety. Thereafter, 10% of the amount deposited in the snowmobile fund shall be used to promote snowmobile safety. The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, not less than 3/10 of 1% is used for propelling snowmobiles on public lands of this state."

Section 11. Section 60-3-209, MCA, is amended to read:

"60-3-209. Apportionment of state funds to federal-aid interstate highway system. (1) Each fiscal year the department shall apportion available state construction funds for the federal-aid interstate highway system among the financial districts.

(2) The apportionment shall be based upon the ratio between the estimated cost of constructing or reconstructing the system in each district and the estimated cost of constructing or reconstructing the entire system within the state.

(3) The cost estimates to be used shall be those developed by the department in accordance with the ~~Federal-Aid--Highway--Act--of--1956,--as--amended~~ Title 23, U.S.C."

Section 12. Section 60-3-212, MCA, is amended to read:

"60-3-212. Interim apportionment to match federal-aid funds. During the interim between legislative sessions, the department of highways is hereby delegated power and authority to develop formulas to apportion state construction funds in an equitable manner consistent with the intent of ~~[this--act]~~ this title to match federal-aid funds for highway systems or purposes not enumerated in ~~[this--act]~~ this title. Such apportionment formulas shall be valid only until approved, modified, or rejected by the next succeeding legislative session."

Section 13. Section 60-3-215, MCA, is amended to read:

"60-3-215. Replacement of bridges. (1) Whenever funds are made available under ~~the-Federal-Aid-Highway-Act~~ Title 23, U.S.C., for the replacement of bridges, the department may allocate from state construction ~~moneys~~ money such ~~moneys~~ money as are is necessary to match the available federal funds. Such allocation shall be made from available state construction ~~moneys~~ money before the apportionments provided for in 60-3-205, 60-3-206, and 60-3-211.

(2) Whenever such state construction ~~moneys~~ money are

is so allocated, the amount so allocated may not be deducted from future apportionments to the financial district or city."

Section 14. Section 60-3-221, MCA, is amended to read:

"60-3-221. Priority primary routes defined. For the purposes of ~~this section~~ 60-3-221 through 60-3-225, "priority primary routes" are defined as those high-traffic sections of highways on the federal-aid primary system which connect to the interstate system."

Section 15. Section 60-3-231, MCA, is amended to read:

"60-3-231. Economic growth center defined. For the purposes of ~~this section~~ 60-3-231 through 60-3-234, an "economic growth center" is defined as an area of population of less than 100,000 which has been recommended for designation as such by the governor of Montana and approved by the secretary of transportation of the United States."

Section 16. Section 60-3-232, MCA, is amended to read:

"60-3-232. Department of highways to determine centers. For the purposes of ~~this section~~ 60-3-231 through 60-3-234, the department of highways is authorized to determine and delineate the area influenced by designated economic growth centers. In so doing, it shall take into account relevant geographic, economic, educational, and recreational factors. The department is also authorized to determine and delineate those portions of existing highways

which need to be upgraded to accommodate the existing and future needs of the traveling public."

Section 17. Section 60-3-301, MCA, is amended to read:

"60-3-301. Short title. This part may be cited as the "Montana ~~Traffic Safety~~ Footpath and Bicycle Trail Act of 1975"."

Section 18. Section 60-3-303, MCA, is amended to read:

"60-3-303. Footpaths and bicycle trails to be established -- funding. (1) Out of the funds received by the highway commission or by any county or city from the state highway comaission earmarked revenue fund, reasonable amounts shall be expended as necessary for the establishment of footpaths and bicycle trails. Footpaths and bicycle trails may be established and extended to the nearest city or town or termination point of the highway or road wherever a highway, road, or street is being constructed, reconstructed, or relocated. In addition, footpaths and bicycle trails shall be established along all streets under state jurisdiction. Funds received from the earmarked revenue fund may also be expended to maintain footpaths and bicycle trails along other highways, roads, and streets and in parks and recreation areas where the construction would enhance traffic safety and convenience. Footpaths and bicycle trails shall be constructed along all sections of the national defense interstate highway system within a

reasonable time after the completion of that system.

(2) Footpaths and trails are not required to be established under subsection (1) of this section:

(a) if the cost of establishing the paths and trails would be excessively disproportionate to the need or probable use; or

(b) where sparsity of population, other available ways, or other factors indicate an absence of any need for the paths and trails.

(3) The amount expended by the state highway commission or by a city or county as ~~requested~~ required or permitted by this section shall never in any one fiscal year be less than 3/4 of 1% of the amount appropriated to the department of highways from the earmarked revenue fund for the construction program, maintenance program, and preconstruction program."

Section 19. Section 60-4-105, MCA, is amended to read:

"60-4-105. Acquisition of whole parcel -- sale of excess. (1) Whenever any interest in a part of a parcel of land or other real property is to be acquired for highway purposes leaving the remainder in a shape or condition as to be of little market value or to give rise to claims or litigation over severance or other damage, the department may acquire the whole parcel. It may sell or exchange the remainder for other property needed for highway purposes.

(2) Whenever a part of a parcel of land acquired for highway purposes is in a shape or size as to come within ~~[11-614]~~ the Montana Subdivision and Platting Act, the department shall prepare and file the required plat in the office of the county clerk and recorder."

Section 20. Section 60-4-203, MCA, is amended to read:

"60-4-203. Conduct of sale. (1) The department shall publish notice of the sale in a newspaper published in the county in which the interest is located once a week for 2 successive weeks. Sale shall be held in the county wherein the property is located unless the department finds it impractical, in which case the sale ~~will~~ shall be held at the office of the department ~~at the capitol~~.

(2) Before the sale of an interest having a value in excess of $100, the department shall have it appraised at a price representing a fair market value. The appraised value shall be stated in the published notice.

(3) A sale of an interest may not be made ~~of on interest~~ unless it has been appraised within 3 months prior to the date of the sale. A sale may not be made for less than 90% of the appraised value.

(4) Title to an interest may not pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the department."

Section 21. Section 60-4-205, MCA, is amended to read:

"60-4-205. Private sale if no bid or offer. (1) If, after proper notice is published, the department receives neither bid at public sale nor offer from the original owner ~~of~~ or his successor in interest, it may at any time thereafter sell the interest at private sale. At the sale, the department may accept as the purchase price an amount of money not less than 90% of the appraised value.

(2) Title to an interest may not pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the department."

Section 22. Section 60-4-401, MCA, is amended to read:

"60-4-401. Relocation -- definitions. For the purposes of the sections relating to relocation of utilities facilities, terms are defined as follows:

(1) "Utility" includes publicly, privately, and cooperatively owned utilities.

(2) "Cost of relocation" includes the entire amount paid by the utility properly attributable to the relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility.

(3) "Federal-aid systems" includes the federal-aid primary system, the federal-aid secondary system, the

federal-aid interstate system, and urban extensions of all of them.

(4) "Interstate system" includes any highway now included or which ~~shall~~ may hereafter be included as a part of the national system of interstate and defense highways provided for in ~~the Federal Aid Highway Act of 1956 and supplements or amendments~~ Title 23, U.S.C."

Section 23. Section 60-5-101, MCA, is amended to read:

"60-5-101. Policy. The legislature declares it to be the policy of this state to facilitate the flow of traffic and promote public safety by controlling access to:

(1) highways included by the federal highway administration ~~roads~~ in the national system of interstate highways;

(2) throughways and intersections with throughways;

(3) such other federal-aid and state highways as shall be designated by the commission in accordance with the requirements set forth in this chapter."

Section 24. Section 60-7-202, MCA, is amended to read:

"60-7-202. Exclusions. Section 60-7-201 does not apply to the following:

(1) livestock on state highways ~~in~~ under the charge of one or more herders;

(2) the parts of fenced highways adjacent to open range where a highway device has not been installed to

exclude range livestock;

(3) the parts of a state highway, or a part of the federal-aid primary system which the department of highways designates as being impracticable to exclude livestock. These portions of the highway shall be marked by proper signs in accordance with the department's manual and specifications for a uniform system of traffic-control devices."

Section 25. Repealer. Section 32-1621, R.C.M. 1947, is repealed.

-End-

HOUSE JUDICIARY COMMITTEE

46TH Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 4	Revise and clarify, relating to highways.	1/4	Marks	Tues 1/9	do pass	1/12
HB 5	revise & clarify, relating to livestock	1/4	Kvaalen	Tues 1/9	do pass	1/12
HB 6	revise the law relating to crimes.	1/4	Vincent	Tues 1/9	do pass	1/12
HB 7	revise & clarify, relating to public utilities & common carriers.	1/4	Manuel	Tues 1/9	do pass amended	1/12
HB 8	revise & clarify, relating to fish & game	1/4	Marks	Tues 1/9	do pass	1/12
HB 10	revise & clarify relating to state lands	1/4	Kvaalen	Weds 1/10	do pass-amended	1/12

The hearing opened on HB #4.

DAVE COGLEY: This bill will revise and clarify the laws relating to highways. There were some other sections that were added. He went through the bill and explained the changes. He explained that it was in conflict with federal law and was brought into line. The U.S. codes were recodified. He went over Title 23 of the U.S. code and explained the Montana Traffic Safety Act.

JIM BECK: DEPARTMENT OF HIGHWAYS. This bill is perfectly satisfactory with me, and we support the bill.

REPRESENTATIVE KEMMIS: Is there some way we will catch a recodify by the federal government to take care of this, (the fact that if they should recodify and Montana did not, they would again be in conflict).

Dave stressed that they intended to keep track of such action.

REPRESENTATIVE EUDAILY: Shouldn't the section on snowmobiles be in the fish and game instead of here. It seems to me it should be covered there.

DAVE COGLEY: No, and he went on to explain the reasoning.

The hearing closed on House Bill #4.

HOUSE BILL #6: The hearing opened on House Bill #6.

JOAN MAYER: There are only two sections in this bill. We inadvertently changed the title and this will restore the wording the way it was before the 1977 session. Mostly the changes were in style and grammar, and the rest is the repealer. She explained that.

The hearing closed on House Bill #6.

HOUSE BILL #7: The hearing opened on House Bill #7 with Larry Weinberg stating that he was with the legislative council and he was responsible for the laws on public utilities and common carriers. He said this was the longest of the bills. This is a mass of very old laws. Because of the length of the bill I will go through it and hit only the high points and you can stop me at any point if you have a question but you should take the bill and study it yourself. During the recodification process we attempted to change the references so that everyone would know what we were talking about. If we were

JUDICIARY COMMITTEE
Executive session
Friday, January 12, 1979

The executive meeting of the House Judiciary Committee was called to order by Chairman Scully at 8:00 a.m. in room 436 of the Capitol Building on Friday January 12. All members were present except Representatives Holmes and Seifert, excused. Representatives Teague and Lory came in late.

HOUSE BILL NO. 4: Representative Keyser moved "do pass". The motion carried with the vote unanimous. Representative Keyser moved that the bill be placed on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 5: There was general discussion about page 8 (title 45) The question was raised whether it would apply.

Representative Kemmis moved to strike Section 7 in its entirety. Page 7, line 16, through page 8, line 4 and renumber subsequent sections. The motion failed.

Representative Lory moved "do pass". The motion carried with the vote unanimous. He then moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

HOUSE BILL NO. 6: Representative Eudaily moved "do pass" The motion carried with the vote unanimous. Representative Eudaily then moved to place the bill on the consent calendar. The motion carried with the vote unanimous.

The committee was recessed at 8:30 to hold the regular meeting.

8:55 a.m. (meeting resumed)

HOUSE BILL NO. 7: Representative Eudaily moved on Page 17, lines 5 and 6 to strike: "soldiers or sailors" and insert: "military personnel". The motion carried with the vote unanimous.

Representative Eudaily moved, on page 62, line 6, following: "admit" strike: "of". The motion carried with the vote unanimous.

Representative Holmes moved "do pass as amended". The motion carried with the vote unanimous. Representative Day moved to place on the consent calendar. The motion carried with the vote unanimous.

SENATE COMMITTEE ON HIGHWAYS AND TRANSPORTATION

LL MBER	DATE RECEIVED	TITLE	SPONSOR	HEARING	ACTION
4	1-15-79	An act to generally revise and clarify the laws relating to highways and repealing section 32-1621, R.C.M. 1947.	MARKS (Healy)	1-25-79	BE CONCURRED IN 1-27-79
13	3-1-79	A bill for an act entitled: an act to require motor carrier rules to reflect differences between all carriers to lease power equipment; amending sections 69-12-205 and 69-12-611, MCA.	NATHE	3-13-79	BE CONCURRED IN 3-13-79
15	3-1-79	An act to amend section 69-14-311, MCA, to revise and clarify the procedures for revision of classifications, rates, and rules of service by railroads.	QUILICI	3-17-79 Saturday	BE CONCURRED IN 3-17-79
17	3-1-79	An act to amend section 69-12-407, MCA, to subject Class C and Class D motor carriers to recordkeeping and reporting requirements of the section and to permit the extension of filing deadlines for good cause by the commission.	TROPILA	3-13-79 Tuesday	BE CONCURRED IN 3-13-79
18	1-19-79	An act to amend section 69-12-327, MCA, to revise the procedure to revoke a motor carrier certificate; providing for an order to show cause and for revocation without hearing in case of failure to show cause.	TROPILA (Healy)	1-30-79 Tuesday	BE CONCURRED IN 1-30-79

Chairman Etchart asked if there were any further questions. There being none the hearing was closed.

CONSIDERATION OF HOUSE BILL 4: Chief Sponsor of the bill is Representative Marks. This is a Recod bill, an act to generally revise and clarify the laws relating to highways; and repealing section 32-1621, R.C.M. 1947. Dave Cogley from the Legislative Council went over the bill explaining all the changes. He stated the main thing this bill did was change reference to Federal Aide Highway Act. In 1958 codified all of the federal highway acts to Title 23. Also changes grammatical errors. Change from "this act" to "title". After Mr. Cogley went over the bill section by section, and there being no questions, the hearing on House Bill 4 was closed.

CONSIDERATION OF SENATE BILL 179: Chief Sponsor of the bill is Senator Hager. It is an act to amend section 61-3-313, to put vehicles with personalized license plates on the staggered registration system. Senator Hager said this is a simple bill and that it was not the intent of the state that personal license plates should not be on staggered system.

Chairman Etchart asked the committee if there were any questions on SB 179.

Larry Majerus from the Highway Department said they support this bill. He told the committee it has caused problems in that people have to come in twice. It is a housekeeping bill for the benefit of those people on personalized license plates.

Senator Kolstad asked if this would change the fees.

Senator Hager said no, the fees would remain the same. Instead of buying them in January, you buy them on the anniversary date of when you first buy the car.

Chairman Etchart asked the committee if there were any further questions, and there being none, the hearing was closed on SB 179.

CONSIDERATION OF SENATE BILL 160: Chief Sponsor of the bill is Senator Towe. He said this is an act to clarify when use of motor vehicle dealer license plates is not authorized; amending section 61-4-103, MCA. He gave the committee some background on this particular bill stating that during the fall when he was campaigning, he received more comments of potential abuse on auto dealers plates and this prompted him to introduce this bill. He stated the law is vague and not clear for using dealer plates. He referred to Page 3, Line 10 of SB 160 and read. There seems to be confusion in the interpretation of this language. This bill would do two things. It would clarify this point of confusion and it would change the burdon of proof. He told the committee it is impossible to do anything about the existing law. The burdon of proof of establishing that guilt is almost impossible. The

ACTION ON HOUSE BILL 65: Senator Hager made the motion to DO PASS HOUSE BILL 65. Senator Graham seconded the motion. The motion carried unanimously.

Senator Hager made the motion to place HB 65 on the consent calendar. Motion carried unanimously. Senator Hazelbaker will carry bill.

ACTION ON SENATE BILL 154: Senator Manning made the motion to DO PASS Senate Bill 154. The motion carried unanimously.

Senator Manning made the motion to place Senate Bill 154 on the Consent Calendar. The motion carried unanimously.

Senator Manning will carry this bill.

ACTION ON HOUSE BILL 4: Senator Hager made the motion that House Bill 4 DO PASS. The motion carried unanimously.

Senator Hazelbaker made the motion to place House Bill 4 on the consent calendar. The motion carried unanimously. Senator Healy will carry this bill.

ACTION ON SENATE BILL 179: Senator Hager made the motion to DO PASS Senate Bill 149. Senator Manning seconded the motion. The motion to DO Pass Senate BILL 179 carried unanimously.

Senator Hager made the motion to place Senate Bill 179 on the Consent Calendar. Senator Graham seconded the motion. The motion carried unanimously.

ACTION ON SJR 7: The committee discussed SJR 7 and decided to have Senator Hazelbaker talk to Senator McCallum, chief sponsor of the bill, to see about an interim study. They suggested a Senate Resolution direct to the Highway Department, that would serve the purpose just as well. Senator Hazelbaker will get together with Senator McCallum and Shaun Simon and report back to the Committee on Tuesday, 1-30-79.

ACTION ON SB113: Senator Healy had to leave and requested his vote be affirmative on SB113. Dave Cogley from the Legislative Council went over the list of amendments, see Exhibit "B". He told the committee in reference to PAGE 93, Line 12, there are two other laws dealing with junk vehicles. One is the county recycling law. They can pick up cars upon the request of private people. This particular section you are talking about, in reference to that I got the 1967 bill out and the intent was to take private property out of the bill. If you wanted to write a law that would say what it was originally, we could do that. But there should be a separate law from the Code Commission Bill. This bill is a clean-up bill and not to change the meaning.

Senator Hager said he would get together with Mr. William Romine, and come up with something to write a new law.

SENATE COMMITTEE Highways & Transportation

Date 1-27-79 House Bill No. 4 Time

NAME	YES	NO
Mark Etchart, Chairman	✓	
Tom V. Hager, Chairman	✓	
Frank W. Hazelbaker	✓	
Allen C. Kolstad		
Carroll A. Graham	✓	
Dave Manning	✓	
John E. Healy	✓	

Carol Fossier
Secretary

Mark Etchart
Chairman

Motion: Do Pass & place on consent Calendar

(include enough information on motion--put with yellow copy of committee report.)

HOUSE BILL NO. 4

INTRODUCED BY MARKS

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO HIGHWAYS; AND REPEALING SECTION 32-1621, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 60-1-101, MCA, is amended to read:

"60-1-101. Legislative findings. The legislature recognizes that safe and efficient highway transportation is of important interest to all of the people of the state and ~~hereby determines and~~ declares that:

(1) inadequate highways, roads, and streets obstruct the free flow of traffic, increase costs of motor vehicle operation, endanger the health and safety of the citizens of the state, depreciate property values, and impede generally the economic progress of the state;

(2) the problems of establishing and maintaining adequate highways, roads, and streets, eliminating congestion, reducing accident frequency, providing parking facilities, and taking all necessary steps to insure safe and convenient transportation are urgent;

(3) adequate and integrated systems of highways, roads, and streets are essential to the general welfare of the ~~state of Montana~~;

(4) providing adequate highway facilities is a proper public use and purpose, and ~~that [this act]~~ this title is necessary for the preservation of the public peace, health, and safety, for the promotion of the general welfare, and as a contribution to the national defense."

Section 2. Section 60-1-103, MCA, is amended to read:

"60-1-103. General definitions. Subject to additional definitions contained in this title which are applicable to specific chapters or sections and unless the context otherwise requires, terms are defined as follows:

(1) "~~abandonment~~ Abandonment"-- ~~means~~ cessation of use of right-of-way (easement) or activity thereon with no intention to reclaim or use again (sometimes called vacation);

(2) "~~commission~~ Commission"-- ~~means the~~ highway commission provided for in 2-15-2502;

(3) "~~condemnation~~ Condemnation"-- ~~means~~ taking by exercise of the right of eminent domain;

(4) "~~construction~~ Construction"-- ~~means~~ supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, mapping, and costs of right-of-way or other interests in land and elimination of hazards at

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railway grade crossings~~.~~

(5) ~~"control~~ Control of access"-- means the condition in which the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially controlled by public authority~~.~~

(6) ~~"county~~ County road"-- means any public highway opened, established, constructed, maintained, abandoned, or discontinued by a county in accordance with Title 7, chapter 14~~.~~

(7) ~~"department~~ Department"-- means the department of highways provided for in Title 2, chapter 15, part 25~~.~~

(8) ~~"director~~ Director"-- means the director of highways, a position provided for in 2-15-2501~~.~~

(9) ~~"easement~~ Easement"-- means a right acquired by public authority to use or control property for a designated purpose~~.~~

(10) ~~"eminent~~ Eminent domain"-- means the right of the state to take private property for public use~~.~~

(11) ~~"federal-aid~~ Federal-aid highway"-- means any public highway which is a portion of any of the federal-aid highway systems~~.~~

(12) ~~"federal-aid~~ Federal-aid highway systems"-- means all of the systems named hereafter and their urban extensions~~.~~

(13) ~~"federal-aid~~ Federal-aid interstate system"-- means that system of public highways selected by the commission in cooperation with adjoining states, subject to the approval of the secretary of commerce, as provided in ~~the Federal Highway Act, as amended~~ Title 23, U.S.C.

(14) ~~"federal-aid~~ Federal-aid primary system"-- means that system of connected public highways designated by the commission, subject to the approval of the secretary of commerce, as provided in ~~the Federal Highway Act, as amended~~ Title 23, U.S.C.

(15) ~~"federal-aid~~ Federal-aid secondary system"-- means that system of public highways not on in the federal-aid primary or interstate systems selected by the commission in cooperation with the boards of county commissioners, subject to the approval of the secretary of commerce, as provided in ~~the Federal Highway Act, as amended~~ Title 23, U.S.C.

(16) ~~"fee~~ Fee simple"-- means an absolute estate o ownership in property including unlimited power of alienation~~.~~

(17) ~~"highway~~ Highway"-- includes rights-of-way or other interests in land, embankments, retaining walls, culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and protective structures~~.~~

(18) ~~"highway~~ Highway", "road", and "street",-- whether

they appear together or separately or are preceded by the adjective "public", these are general terms denoting a public way for purposes of vehicular travel~~,--including~~ and include the entire area within the right-of-way~~.~~

(19) "~~highway~~ Highway authority~~(ies)~~"-- means the entity~~(ies)~~ at any level of government authorized by law to construct and maintain highways~~.~~

(20) "~~maintenance~~ Maintenance"-- ~~means the~~ preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for its safe and efficient utilization~~.~~

(21) "~~public~~ Public highways"-- means all streets, roads, highways, bridges, and related structures which have been or shall be:

(a) built and maintained with appropriated funds of the United States or the state or any political subdivision thereof;

(b) dedicated to public use;

(c) acquired by eminent domain;

(d) acquired by adverse ~~user~~ use by the public, jurisdiction having been assumed by the state or any political subdivision thereof~~.~~

(22) "~~right-of-way~~ Right-of-way"-- is a general term denoting land, property, or any interest therein, usually in a strip, acquired for or devoted to highway purposes~~.~~

(23) "~~state~~ State highway"-- means any public highway planned, laid out, altered, constructed, reconstructed, improved, repaired, maintained, or abandoned by the department~~.~~

(24) "~~toll----bridge~~ Bridge"-- means any bridge constructed by the department, together with all appurtenances, additions, alterations, improvements, replacements, and the approaches thereto, lands used therefor, and improvements thereon."

Section 3. Section 60-1-201, MCA, is amended to read:

"60-1-201. Classification -- highways and roads. (1) Public highways of this state are ~~classed~~ classified as follows:

(a) federal-aid highways;

(b) state highways;

(c) county roads;

(d) city streets.

(2) All highways which are not designated, selected, or established by the commission or constructed or maintained by the department are county roads or city streets.

(3) County roads are those opened, established, constructed, maintained, changed, abandoned, or discontinued by a county in accordance with Title 7, chapter 14.

(4) City streets are those public highways under the

jurisdiction of municipal officials."

Section 4. Section 60-2-106, MCA, is amended to read:

"60-2-106. Designation of highways not located entirely within the state. The commission may designate highways subject to improvement under the provisions of the ~~Federal-Aid--Road--Act,--approved-July-11,-1916,-the-Federal Highway-Act,-approved-November-9,-1921,-and--all--amendments thereto~~ Title 23, U.S.C., even though those highways are not located entirely and continuously within the boundaries of the state. The designations shall meet the following conditions:

(1) ~~that~~ the highway is on an approved federal-aid route and eligible for improvement under ~~the--federal-aid acts~~ Title 23, U.S.C.;

(2) ~~that~~ the location of a portion of the route outside the boundaries of the state is necessary because of natural geographical or physical conditions which make the construction of the highway within the state impossible or impracticable;

(3) ~~that~~ the portion of the route located outside the state does not connect with and is not a part of the state highway system of the adjoining state."

Section 5. Section 60-2-112, MCA, is amended to read:

"60-2-112. Competitive bidding. (1) When the estimated cost of any work exceeds $1,000, the commission shall let

the contract by competitive bidding. Award shall be made upon such notice and upon such terms as the commission may prescribe by its rules. However, except when prohibited by federal law, the commission ~~must~~ shall make awards and contracts in accordance with 18-1-102 and 18-1-112.

(2) If the commission finds that the work may be done in some more efficient manner, it need not let the contract by competitive bidding.

(3) If, on highway construction work financed in whole or in part by federal funds, the United States secretary of transportation affirmatively finds that under the circumstances relating to a particular project some method other than competitive bidding is in the public interest, the commission may enter into contracts with a board of county commissioners. These contracts may authorize each county to acquire rights-of-way for, survey, and construct farm-to-market, secondary, or feeder roads within the count by force account, unit price, or otherwise, as may be agreed by the commission and the board.

(4) If, on any highway construction work financed in whole or in part by federal funds, the commission finds that enforcement of the provisions contained in 15-50-203 and 18-2-311, relating to public contractors working beyond contract time will result in a reduction in the full benefits of ~~the--Federal--Highway--Act--of--1921--and--all~~

amendments---thereto Title 23, U.S.C., it may waive enforcement of such provisions."

Section 6. Section 60-2-205, MCA, is amended to read:

"60-2-205. Powers of department with respect to highways not located entirely within the state. The department may expend funds for the construction, reconstruction, engineering, administration, betterment, and maintenance of highways designated under 60-2-106. It may do all things necessary or required to carry out fully the cooperation contemplated under the federal-aid acts Title 23, U.S.C., with regard thereto."

Section 7. Section 60-3-101, MCA, is amended to read:

"60-3-101. Assent to federal-aid acts federal law. (1) The legislature, for and on behalf of the state of Montana, assents to the provisions of the Federal-Aid Road Act, approved July 11, 1916, and the Federal Highway Act, approved November 9, 1921, and all amendments thereto Title 23, U.S.C.

(2) The department may, for and on behalf of the state, enter into all contracts and agreements with the United States or any officer, department, or bureau thereof relating to the construction, reconstruction, repair, and maintenance of highways in the state.

(3) The department may make all rules necessary to comply with the provisions of the acts laws assented to and

all other acts laws granting aid for public highways and to obtain for the state the full benefits of such acts laws.

(4) The department may do all other things necessary or required to carry out fully the cooperation contemplated by the acts of congress assented to."

Section 8. Section 60-3-103, MCA, is amended to read:

"60-3-103. Purposes for which federal funds to be expended. The department may expend funds apportioned to the state under Public Law 89-285, Title III, Section 30 1(e), October 22, 1965, 79 Statute 1032, 23 U.S.C. 319 for the following purposes:

(1) for landscape and roadside development within the rights-of-way of federal-aid highways of this state;

(2) for acquisition of interests in and improvement of strips of land necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to the highways; and

(3) for acquisition and development of publicly owned and controlled rest and recreation areas and sanitary and other facilities within or adjacent to federal-aid highway rights-of-way reasonably necessary to accommodate the traveling public."

Section 9. Section 60-3-105, MCA, is amended to read:

"60-3-105. Expenditure of funds. The department shall expend only nonmatching funds authorized under section 23

U.S.C. 319(b) ~~of the Federal Highway Beautification Act of 1965, as amended,~~ in carrying out the authority granted by 60-3-102 through 60-3-104."

Section 10. Section 60-3-201, MCA, is amended to read:

"60-3-201. Distribution and use of proceeds of gasoline dealers' license tax. (1) All money received in payment of license taxes under the Distributor's Gasoline License Tax Act, except those amounts paid out of the department of revenue's suspense account for gasoline tax refund, shall be used and expended as provided in this section. So much of that money on hand at any time as may be needed to pay highway bonds and interest thereon when due and to accumulate and maintain a reserve therefor, as provided in laws and in resolutions of the state board of examiners authorizing such bonds, shall be deposited in the highway bond account in the sinking fund established by 17-2-102. Subject to that provision, 9/10 of 1% of all money shall be deposited in the state park account and 3/10 of 1% of all money shall be deposited in a snowmobile account in the earmarked revenue fund. ~~All of the~~ The remainder of the money shall be used ~~and expended~~ by the department of highways on the federal-aid highways in this state selected and designated under ~~the Federal Aid Act, approved July 11, 1916, and the Federal Highway Act, approved November 9, 1921, and all amendments thereto~~ Title 23, U.S.C., and on

highways leading from each county seat in the state to the federal highway system of federal-aid roads where the county seat is not on the system and on the other roads which have been or may be authorized by the laws of Montana and for collection of the license taxes and the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of this state.

(2) The department shall, in expending this money, carry forward construction from year to year, using the money expended through the matching up of federal-aid allotments to Montana upon the federal highway system in the various parts of the state in accordance with 60-3-204 through 60-3-206. Nothing in this ~~feet~~ title conflicts with ~~those federal-aid highway acts~~ Title 23, U.S.C., and the rules by which ~~they are~~ it is administered.

(3) The department may enter into cooperative agreements with the national park service and the federal highway administration for the purpose of maintaining national park approach roads in Montana.

(4) Money credited to the state park account in the earmarked revenue fund shall be used only for the creation, improvement, and maintenance of state parks where motor boating is allowed, except for the payment of refunds under 15-70-221 through 15-70-226. The legislature ~~hereby~~ finds as a ~~fact~~ that of all the fuel sold in the state for

consumption in internal combustion engines, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

(5) Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost, and to promote snowmobile safety. For the 2 years following July 1, 1977, 15% of the amount deposited in the snowmobile fund each year shall be used to promote snowmobile safety. Thereafter, 10% of the amount deposited in the snowmobile fund shall be used to promote snowmobile safety. The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, not less than 3/10 of 1% is used for propelling snowmobiles on public lands of this state."

Section 11. Section 60-3-209, MCA, is amended to read:

"60-3-209. Apportionment of state funds to federal-aid interstate highway system. (1) Each fiscal year the department shall apportion available state construction funds for the federal-aid interstate highway system among the financial districts.

(2) The apportionment shall be based upon the ratio between the estimated cost of constructing or reconstructing the system in each district and the estimated cost of constructing or reconstructing the entire system within the state.

(3) The cost estimates to be used shall be those developed by the department in accordance with the ~~Federal-Aid--Highway--Act--of--1956,--as--amended~~ Title 23, U.S.C."

Section 12. Section 60-3-212, MCA, is amended to read:

"60-3-212. Interim apportionment to match federal-aid funds. During the interim between legislative sessions, the department of highways is ~~hereby~~ delegated power and authority to develop formulas to apportion state construction funds in an equitable manner consistent with the intent of ~~[this--act]~~ this title to match federal-aid funds for highway systems or purposes not enumerated in ~~[this--act]~~ this title. Such apportionment formulas shall be valid only until approved, modified, or rejected by the next ~~succeeding~~ legislative session."

Section 13. Section 60-3-215, MCA, is amended to read:

"60-3-215. Replacement of bridges. (1) Whenever funds are made available under ~~the-Federal-Aid-Highway-Act~~ Title 23, U.S.C., for the replacement of bridges, the department may allocate from state construction moneys money such moneys money as are is necessary to match the available federal funds. Such allocation shall be made from available state construction moneys money before the apportionments provided for in 60-3-205, 60-3-206, and 60-3-211.

(2) Whenever such state construction moneys money are

is so allocated, the amount so allocated may not be deducted from future apportionments to the financial district or city."

Section 14. Section 60-3-221, MCA, is amended to read:

"60-3-221. Priority primary routes defined. For the purposes of ~~this section~~ 60-3-221 through 60-3-225, "priority primary routes" are defined as those high-traffic sections of highways on the federal-aid primary system which connect to the interstate system."

Section 15. Section 60-3-231, MCA, is amended to read:

"60-3-231. Economic growth center defined. For the purposes of ~~this section~~ 60-3-231 through 60-3-234, an "economic growth center" is defined as an area of population of less than 100,000 which has been recommended for designation as such by the governor of Montana and approved by the secretary of transportation of the United States."

Section 16. Section 60-3-232, MCA, is amended to read:

"60-3-232. Department of highways to determine centers. For the purposes of ~~this section~~ 60-3-231 through 60-3-234, the department of highways is authorized to determine and delineate the area influenced by designated economic growth centers. In so doing, it shall take into account relevant geographic, economic, educational, and recreational factors. The department is also authorized to determine and delineate those portions of existing highways

which need to be upgraded to accommodate the existing and future needs of the traveling public."

Section 17. Section 60-3-301, MCA, is amended to read:

"60-3-301. Short title. This part may be cited as the "Montana ~~Traffic Safety~~ Footpath and Bicycle Trail Act of 1975"."

Section 18. Section 60-3-303, MCA, is amended to read:

"60-3-303. Footpaths and bicycle trails to be established -- funding. (1) Out of the funds received by the highway commission or by any county or city from the state highway commission earmarked revenue fund, reasonable amounts shall be expended as necessary for the establishment of footpaths and bicycle trails. Footpaths and bicycle trails may be established and extended to the nearest city or town or termination point of the highway or road wherever a highway, road, or street is being constructed, reconstructed, or relocated. In addition, footpaths and bicycle trails shall be established along all streets under state jurisdiction. Funds received from the earmarked revenue fund may also be expended to maintain footpaths and bicycle trails along other highways, roads, and streets and in parks and recreation areas where the construction would enhance traffic safety and convenience. Footpaths and bicycle trails shall be constructed along all sections of the national defense interstate highway system within a

reasonable time after the completion of that system.

(2) Footpaths and trails are not required to be established under subsection (1) of this section:

(a) if the cost of establishing the paths and trails would be excessively disproportionate to the need or probable use; or

(b) where sparsity of population, other available ways, or other factors indicate an absence of any need for the paths and trails.

(3) The amount expended by the state highway commission or by a city or county as ~~requested~~ required or permitted by this section shall never in any one fiscal year be less than 3/4 of 1% of the amount appropriated to the department of highways from the earmarked revenue fund for the construction program, maintenance program, and preconstruction program."

Section 19. Section 60-4-105, MCA, is amended to read:

"60-4-105. Acquisition of whole parcel -- sale of excess. (1) Whenever any interest in a part of a parcel of land or other real property is to be acquired for highway purposes leaving the remainder in a shape or condition as to be of little market value or to give rise to claims or litigation over severance or other damage, the department may acquire the whole parcel. It may sell or exchange the remainder for other property needed for highway purposes.

(2) Whenever a part of a parcel of land acquired for highway purposes is in a shape or size as to come within ~~[11-614]~~ the Montana Subdivision and Platting Act, the department shall prepare and file the required plat in the office of the county clerk and recorder."

Section 20. Section 60-4-203, MCA, is amended to read:

"60-4-203. Conduct of sale. (1) The department shall publish notice of the sale in a newspaper published in the county in which the interest is located once a week for 2 successive weeks. Sale shall be held in the county wherein the property is located unless the department finds it impractical, in which case the sale ~~will~~ shall be held at the office of the department ~~at the capitol~~.

(2) Before the sale of an interest having a value in excess of $100, the department shall have it appraised at a price representing a fair market value. The appraised value shall be stated in the published notice.

(3) A sale of an interest may not be made ~~of an~~ interest unless it has been appraised within 3 months prior to the date of the sale. A sale may not be made for less than 90% of the appraised value.

(4) Title to an interest may not pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the department."

Section 21. Section 60-4-205, MCA, is amended to read:

"60-4-205. Private sale if no bid or offer. (1) If, after proper notice is published, the department receives neither bid at public sale nor offer from the original owner of ~~or~~ his successor in interest, it may at any time thereafter sell the interest at private sale. At the sale, the department may accept as the purchase price an amount of money not less than 90% of the appraised value.

(2) Title to an interest may not pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the department."

Section 22. Section 60-4-401, MCA, is amended to read:

"60-4-401. Relocation -- definitions. For the purposes of the sections relating to relocation of utilities facilities, terms are defined as follows:

(1) "Utility" includes publicly, privately, and cooperatively owned utilities.

(2) "Cost of relocation" includes the entire amount paid by the utility properly attributable to the relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility.

(3) "Federal-aid systems" includes the federal-aid primary system, the federal-aid secondary system, the

federal-aid interstate system, and urban extensions of all of them.

(4) "Interstate system" includes any highway now included or which ~~shall~~ may hereafter be included as a part of the national system of interstate and defense highways provided for in ~~the Federal-Aid Highway Act of 1956 and supplements or amendments~~ Title 23, U.S.C."

Section 23. Section 60-5-101, MCA, is amended to read:

"60-5-101. Policy. The legislature declares it to be the policy of this state to facilitate the flow of traffic and promote public safety by controlling access to:

(1) highways included by the federal highway administration ~~roads~~ in the national system of interstate highways;

(2) throughways and intersections with throughways;

(3) such other federal-aid and state highways as shall be designated by the commission in accordance with th requirements set forth in this chapter."

Section 24. Section 60-7-202, MCA, is amended to read:

"60-7-202. Exclusions. Section 60-7-201 does not apply to the following:

(1) livestock on state highways ~~in~~ under the charge of one or more herders;

(2) the parts of fenced highways adjacent to open range where a highway device has not been installed to

exclude range livestock;

(3) the parts of a state highway, or a part of the federal-aid primary system which the department of highways designates as being impracticable to exclude livestock. These portions of the highway shall be marked by proper signs in accordance with the department's manual and specifications for a uniform system of traffic-control devices."

Section 25. Repealer. Section 32-1621, R.C.M. 1947, is repealed.

-End-